

Instructions for Preparing and Filing/Serving Floyd County Mediation Documents

Part I: What May Be Prepared and Filed/Served by the Mediator

Rule 2.7(F) of the Indiana Rules of Alternative Dispute Resolution (ADR Rules) clarifies what mediation documents may be prepared by a mediator, particularly in case with unrepresented parties. The Rule provides:

(F) Mediator's Preparation and Filing of Documents in Domestic Relations Cases.

At the request and with the permission of all parties in a domestic relations case, a Mediator may prepare or assist in the preparation of documents as set forth in this paragraph (F).

The Mediator shall inform an unrepresented party that he or she may have an attorney of his or her choosing (1) be present at the mediation and/or (2) review any documents prepared during the mediation. The Mediator shall also review each document drafted during mediation with any unrepresented parties. During the review the Mediator shall explain to unrepresented parties that they should not view or rely on language in documents prepared by the Mediator as legal advice. When the document(s) are finalized to the parties' and any counsel's satisfaction, and at the request and with the permission of all parties and any counsel, the Mediator may also tender to the court the documents listed below when the mediator's report is filed.

In FMPT, the Mediator may prepare or assist in the preparation of the following documents specified in ADR Rule 2.7(F):

- (1) A **written mediated agreement** (referred to as the Agreed Mediated Order) with "so ordered" language for the judge presiding over the parties' case.
- (2) A **summary decree of dissolution**, with the caption in the case, so long as the decree is in the form of a document that has been adopted or accepted by the court in which the document is to be filed and the summary decree reflects the terms of the mediated agreement;
- (3) A **verified waiver of final hearing**, with the caption in the case, so long as the waiver is in the form of a document that has been adopted or accepted by the court in which the document is to be filed;
- (4) A **child support calculation**, if the parties have children, including a child support worksheet and any other required worksheets pursuant to the Indiana Child Support Guidelines or Parenting Time Guidelines, so long as the parties are in agreement on all the entries included in the calculations;

Note that mediators are authorized to prepare two other documents specified in ADR Rule 2.7 (F), but the mediators in FMTP will not be preparing those documents in this program.

Form and template documents, approved by Judge Granger, are provided in the Appendices to this Manual. Below is a list of each form and template mediation document provided with its Appendix number and important instructions to follow when preparing the documents.

- A. Template Agreed Mediated Order (file as a proposed Order)
- B. Child Support Calculation (file as an attachment to the Agreed Mediated Order)
- C. Arrearage Calculation (generally not filed; refer to arrearage in the Agreed Mediated Order)
- D. Form Summary Decree (file as a proposed Order)
- E. Form Verified Waiver of Final Hearing (file as a Complaint/Equivalent Pleading)
- F. Form Mediator's Report (file as a Complaint/Equivalent Pleading)

Part II: Specific Instructions for the Mediators

A. Written Mediated Agreement, referred to as the Template Agreed Mediated Order

The Agreed Mediated Order is set up to have most of the issues that might come up when mediating a family law case. There are provisions for most of the issues that typically arise in an initial dissolution, but the template may be modified for a modification or even another type of family law case (e.g., paternity).

Review the template Agreed Mediated Order before you start using it to become familiar with how it is set up.

Tailor the caption, signature lines, and certificate of service.

Fill in any necessary blanks in the document for the case you are mediating.

Make global changes for the parties and/or the children in the various paragraphs. For the parties, MOTHER/FATHER/NAME is provided. Most cases will have a Mother and a Father, but some cases will not. Use a party's name when the terms Mother or Father is not applicable, or if there are two same-sex parents.

Remove highlighting when finalizing the document; highlighting is provided to help ensure you remember to make global changes.

[Note: When making global changes, if the term is all capitalized and you do not want all capitalized, follow these instructions:

For a MAC: Go to "Edit"--> "Find" --> "Find and Replace Advanced" --> type in what you want to find --> type in what you want to replace --> check the "Match Case" box.

For a PC: Go to the "Home" tab --> click "replace" --> type in what you want to find --> type in what you want to replace --> click the "More" button in the bottom left corner of the pop-up box --> check the "Match Case" box.]

Remove any unneeded paragraphs, being sure to renumber the paragraphs.

Providing **parenting goals** is optional. That said, it may help parties with children keep their focus on what's best for their children.

The language for **custody, parenting time, and related arrangements** should be self-explanatory. Choose the correct option(s), or type in what the parties agree to.

Addressing **child support, if needed**:

The parties must attach a child support calculation or incorporate a prior calculation. See the instructions below on child support calculation preparation.

The assumption/general requirement is that child support will be paid by an Income Withholding Order (IWO). The parties need to justify NOT having an IWO. There is template language for this option.

If the parties have children, the parties need to provide health insurance for their children, unless there is no insurance available that is accessible and at a reasonable cost (see Child Support Guideline 7 on accessibility and reasonable cost). There are a number of options in the template for how the parent(s) will provide health insurance.

Arrearages should be calculated. Often, the Title IV-D prosecutor can provide that information, or you can use the [Arrearage Form](#).

Addressing **property division**, it is not sufficient to say that all property has been divided. You need to spell out how the property was divided. This is in case there is a dispute down the road, and property division needs to be enforced.

Addressing **tax exemptions**, there are a number of options provided. Choose the correct option(s) and be sure to include the paragraph about the requirement for a parent who is paying child support and claiming the children.

The parties are not limited to the issues in the template Agreed Mediated Order. You may include other language as they agree.

Always include the last paragraph of the template (numbered paragraph X), which has important language for you as the mediator to have in the agreed order.

Efile the Agreed Mediated Order as a Proposed Order Filed.

B. Child Support Calculation (IF APPLICABLE)

If child support is being addressed, use the Practitioner’s Version of the child support calculator located at: <http://mycourts.in.gov/csc/Practitioners/>

Follow the instructions for how to prepare the child support calculation in the Rubric for Completing CSOWs (simplified instructions) or the Handout on Completing CSOWs (more detailed instructions), both of which are provided.

The parties are required to calculate child support with accurate and current information. Once child support is calculated, if they agree to a deviation, that must be explained in the Agreed Mediated Order.

Efile the child support calculation as an attachment to the Agreed Mediated Order.

C. Arrearage Calculation

It is easier to get the assistance of the Title IV-D Prosecutor in determining a party’s arrearage. If that is not possible, see the Indiana Arrearage Calculation Worksheet.

Note that this is not a document that you would file with the Court. It is just a document to help with the arrearage calculation. Given that the child support obligation at most would go back to the date of filing, it should be fairly straightforward to calculate the arrearage by determining how much is owed and how much (if any) was actually paid.

D. Form Summary Decree

The form Summary Decree provided has been approved by Judge Granger.

Use this form, adapting it as needed.

Review the form Summary Decree before you start using it to become familiar with how it is set up.

Tailor the caption, signature lines, and certificate of service.

Leave in the header: “Floyd County Superior Court Approved Form”

Fill in any necessary blanks in the document for the case you are mediating.

Delete any information that is not relevant.

Remove highlighting when finalizing the document; highlighting is provided to help remind you of language that will need to be tailored as appropriate in the case.

Efile the Summary Decree as a Proposed Order Filed.

E. Form Verified Waiver of Final Hearing

The form Verified Waiver of Final Hearing has been approved by Judge Granger.

Use this form, tailoring the caption, signature lines, and certificate of service.

Leave in the header: “Floyd County Superior Court Approved Form”

Efile the Verified Waiver of Final Hearing as a Complaint/Equivalent Pleading.

Instructions for Preparing and Filing/Serving Floyd County Mediator Reports

This part of the Instructions addresses the Mediator’s Report that you will be filing at the conclusion of each mediation case you handle. A template, with explanation, is provided.

Template Mediator’s Report

Use this template, tailoring the caption, signature line, and certificate of service.

The template has options for you to choose from. Per Rules 2.7(D)(3) and 2.7(E)(1) of Indiana’s ADR Rules, you are limited to what you may report. These rules provide:

2.7(D) Termination of Mediation.

- (1) The mediator shall terminate or decline mediation whenever the mediator believes:
 - (a) that of the meditation process would harm or prejudice one or more of the parties or the children;
 - (b) the ability or willingness of any party to participate meaningfully in mediation is so lacking that a reasonable agreement is unlikely;
 - (c) due to conflict of interest or bias on the part of the mediator;
 - (d) or mediation is inappropriate for other reasons

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(3) *The mediator shall not state the reason for terminating or declining mediation except to report to the court, without further comment, that the mediator is terminating or declining mediation.*

2.7(E) Report of Mediation: Status.

(1) Within ten (10) days after the mediation, the mediator shall submit to the court, without comment or recommendation, a report of mediation status. *The report shall indicate that an agreement was or was not reached in whole or in part or that the mediation was extended by the parties. If the parties do not reach any agreement as to any matter as a result of the mediation, the mediator shall report the lack of any agreement to the court without comment or recommendation. With the consent of the parties, the mediator's report may also identify any pending motions or outstanding legal issues, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of a settlement.*

Accordingly, select the appropriate item(s) included in the Report:

- _____ Full Agreement
- _____ Partial Agreement
- _____ No Agreement
- _____ Mediation Pending
- _____ Next session scheduled for DATE at TIME a.m./p.m.
- _____ Mediation Terminated
- _____ Mediation Declined
- _____ Other: Parties wish to advise the Court of the following

Efile the Mediator's Report as a Complaint/Equivalent Pleading.